

2013 DRAFTING REQUEST

Bill

Received: 11/19/2012	Received By: chanaman
Wanted: As time permits	Same as LRB:
For: André Jacque (608) 266-9870	By/Representing: himself
May Contact:	Drafter: chanaman
Subject: Criminal Law - domestic abuse Criminal Law - law enforcement	Addl. Drafters:
	Extra Copies:

Submit via email: **YES**
 Requester's email: **Andre.Jacque@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Domestic violence reports and training

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 11/30/2012	scalvin 12/10/2012		_____			
/P1		scalvin 1/2/2013	phenry 12/10/2012	_____	srose 12/10/2012	chanaman 12/17/2012	
/P2	chanaman 2/24/2013	scalvin 2/28/2013	rschluet 2/28/2013	_____	srose 1/2/2013		State S&L
/P3	chanaman	scalvin	rschluet	_____	srose		State

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	3/4/2013	3/5/2013	3/5/2013	_____	2/28/2013		S&L
/P4	chanaman	scalvin	rschluet	_____	sbasford		State
	4/8/2013	4/8/2013	4/8/2013	_____	3/5/2013		S&L
/1				_____	sbasford	lparisi	State
				_____	4/8/2013	4/8/2013	S&L

FE Sent For:

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intro.

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/P3	chanaman	scalvin	rschluet	_____	srose		State

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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sbasford

State

3/5/2013

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04/08/2013

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Vers. Drafted

Reviewed

Typed

Proofed

Submitted

Jacketed

Required

2/28/2013

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FE Sent For:

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 Wanted: As time permits Companion to LRB:
 For: Andre Jacque (608) 266-9870 By/Representing: himself
 May Contact: Drafter: chanaman
 Subject: Criminal Law - domestic abuse Addl. Drafters:
 Criminal Law - law enforcement Extra Copies:

Submit via email: YES
 Requester's email: Andre.Jacque@legis.wisconsin.gov
 Carbon copy (CC) to:

Pre Topic:

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Instructions:

See attached

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/?	chanaman 11/30/2012	scalvin 12/10/2012					
/P1		scalvin 1/2/2013	12/10/2012		srose 12/10/2012	chanaman 12/17/2012	
/P2		kfollett 1/2/2013	1/2/2013		srose 1/2/2013		State S&L
FE Sent For:		13 sac 02/28/2013					

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 Subject: **Criminal Law - domestic abuse** Addl. Drafters:
Criminal Law - law enforcement Extra Copies:

Submit via email: **YES**
 Requester's email: **Andre.Jacque@legis.wisconsin.gov**
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Instructions:

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/?	chanaman 11/30/2012	scalvin 12/10/2012					
/P1			12/10/2012		srose 12/10/2012		
		/P2 sac 12/22/12	"				
FE Sent For:				Jim + LS 1/2/2013			

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 Subject: Criminal Law - domestic abuse Addl. Drafters:
 Criminal Law - law enforcement Extra Copies:

Submit via email: YES
 Requester's email: Rep.Jacque@legis.wi.gov
 Carbon copy (CC) to:

Pre Topic:

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1/?	chanaman	1/1 SAC 12/10/2012	1/1 SAC 12/10/2012	JF PA			

FE Sent For:

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Hanaman, Cathlene

From: Jacque, Andre
Sent: Friday, November 16, 2012 4:17 PM
To: Hanaman, Cathlene
Subject: Drafting request
Attachments: Washington State DV police response law.docx

Hello Cathlene-

Thank you for getting me the draft of the Minnesota domestic violence legislation so quickly. I also have a second bill drafting request (which I referenced in my email to Peggy Hurley) for legislation to require law enforcement to file reports of all incidents where they are dispatched to deal with domestic disturbances and inform potential victims of resources available to them, along the lines of Washington state code (RCW 10.99.030 –see attached). The elements I am specifically looking for are:

(5) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(6)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in RCW 10.31.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(7) When a peace officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in superior, district, or municipal court requesting an order for protection from domestic abuse which could include any of the following: (a) An order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available in any municipal, district, or superior court.

Information about shelters and alternatives to domestic violence is available from a statewide twenty-four-hour toll-free hot line at (include appropriate phone number). The battered women's shelter and other resources in your area are
(include local information)"

(8) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(9) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

(10) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.

Thank you!
André

Cell 920-819-8066

OFFICE OF STATE REPRESENTATIVE

André Jacques

2ND ASSEMBLY DISTRICT
P.O. Box 8953 • Madison, WI 53708-8952
(608) 266-9870 • Fax: (608) 282-3602
Toll-Free: (888) 534-0002
Rep.Jacque@legis.wi.gov

From: Tony Gibart [mailto:tonyg@wcadv.org]
Sent: Friday, November 16, 2012 10:05 AM
To: Jacques, Andre
Subject: RE: Phone call

Hi Andre,

Thanks for your message and invitation to the Nov. 27 meeting. I can make it and will be there. I am attaching the Washington State law. My colleague in Washington said the reporting aspect has generally been useful and effective there. I think the provisions requiring law enforcement to provide information about victim services, such as Golden House, could be very valuable as well, and might tie in nicely with the work we did last session. I'll explain more about that when we can discuss in person.

If I don't talk to you before, have a great Thanksgiving!

Tony

From: Jacques, Andre [mailto:Andre.Jacque@legis.wisconsin.gov]
Sent: Wednesday, November 14, 2012 6:02 PM
To: Tony Gibart
Subject: RE: Phone call

Thanks, Tony-
I did want to talk with you about the mandatory arrest law compliance as well. I'll be out of the office tomorrow, but will call to set up a time to meet.
Best Regards,
André

49.145 (u)(b)
165.93 (u)(b)
7.08 (10)
165.92 (u)(b)
49.145 (u)(b)

Washington State DV police response law.

RCW 10.99.030

Law enforcement officers — Training, powers, duties — Domestic violence reports.

(1) All training relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) The criminal justice training commission shall implement by January 1, 1997, a course of instruction for the training of law enforcement officers in Washington in the handling of domestic violence complaints. The basic law enforcement curriculum of the criminal justice training commission shall include at least twenty hours of basic training instruction on the law enforcement response to domestic violence. The course of instruction, the learning and performance objectives, and the standards for the training shall be developed by the commission and focus on enforcing the criminal laws, safety of the victim, and holding the perpetrator accountable for the violence. The curriculum shall include training on the extent and prevalence of domestic violence, the importance of criminal justice intervention, techniques for responding to incidents that minimize the likelihood of officer injury and that promote victim safety, investigation and interviewing skills, evidence gathering and report writing, assistance to and services for victims and children, verification and enforcement of court orders, liability, and any additional provisions that are necessary to carry out the intention of this subsection.

(3) The criminal justice training commission shall develop and update annually an in-service training program to familiarize law enforcement officers with the domestic violence laws. The program shall include techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of all parties. The commission shall make the training program available to all law enforcement agencies in the state.

(4) Development of the training in subsections (2) and (3) of this section shall be conducted in conjunction with agencies having a primary responsibility for serving victims of domestic violence with emergency shelter and other services, and representatives to the statewide organization providing training and education to these organizations and to the general public.

(5) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(6)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in RCW 10.31.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(7) When a peace officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter

From: Tony Gibart [<mailto:tonyg@wcadv.org>]
Sent: Wednesday, November 14, 2012 4:19 PM
To: Jacque, Andre
Subject: Phone call

Hi André,

Thanks for your voicemail. Might you be in the capitol and available tomorrow? I am going to be in the building and thought it might be useful to touch base in person if possible.

I am attaching a document. It is a draft memo I prepared about the other acts concept Pat Kinney was talking with Rep. Richards about. I have shared my memo with Pat, and he seemed to prefer the slight variations in the memo compared to MN law (although, I am not invested in any particular language at this point). I did approach folks at DOJ about collaborating on this proposal several months ago. They were receptive, but I do NOT know if it has made its way to Dean and AG's office yet. This is all just to say: DOJ may be interested and have opinions about the details.

Secondly, I am looking into the Washington State law. I just emailed my counterpart in Olympia and will let you know what she says. I am curious what effect this law has had, if it's complied with, provides useful information, etc. I'd love to talk with you about other steps that should be considered to beef up compliance with the mandatory arrest law and other actions that could be taken in the next session. Let me know when you have some time.

Thanks for moving on these things, and for being a strong voice on this issue throughout the last month in particular.

Tony

Tony Gibart
Policy Coordinator
Wisconsin Coalition Against Domestic Violence
307 S. Paterson St. #1
Madison, WI 53703

Phone: (608) 255-0539 ext. 310
Fax/TTY: (608) 255-3560

or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in superior, district, or municipal court requesting an order for protection from domestic abuse which could include any of the following: (a) An order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available in any municipal, district, or superior court.

Information about shelters and alternatives to domestic violence is available from a statewide twenty-four-hour toll-free hot line at (include appropriate phone number). The battered women's shelter and other resources in your area are (include local information)"

(8) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(9) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

(10) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.

(11) Records kept pursuant to subsections (6) and (10) of this section shall be made identifiable by means of a departmental code for domestic violence.

(12) Commencing January 1, 1994, records of incidents of domestic violence shall be submitted, in accordance with procedures described in this subsection, to the Washington association of sheriffs and police chiefs by all law enforcement agencies. The Washington criminal justice training commission shall amend its contract for collection of statewide crime data with the Washington association of sheriffs and police chiefs:

(a) To include a table, in the annual report of crime in Washington produced by the Washington association of sheriffs and police chiefs pursuant to the contract, showing the total number of actual offenses and the number and percent of the offenses that are domestic violence incidents for the following crimes: (i) Criminal homicide, with subtotals for murder and nonnegligent homicide and manslaughter by negligence; (ii) forcible rape, with subtotals for rape by force and attempted forcible rape; (iii) robbery, with subtotals for firearm, knife or cutting instrument, or other dangerous weapon, and strongarm robbery; (iv) assault, with subtotals for firearm, knife or cutting instrument, other dangerous weapon, hands, feet, aggravated, and other nonaggravated assaults; (v) burglary, with subtotals for forcible entry, nonforcible unlawful entry, and attempted forcible entry; (vi) larceny theft, except motor vehicle theft; (vii) motor vehicle theft, with subtotals for autos, trucks and buses, and other vehicles; (viii) arson; and (ix) violations of the provisions of a protection order or no-contact order restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, provided that specific appropriations are subsequently made for the collection and compilation of data regarding

violations of protection orders or no-contact orders;

(b) To require that the table shall continue to be prepared and contained in the annual report of crime in Washington until that time as comparable or more detailed information about domestic violence incidents is available through the Washington state incident based reporting system and the information is prepared and contained in the annual report of crime in Washington; and

(c) To require that, in consultation with interested persons, the Washington association of sheriffs and police chiefs prepare and disseminate procedures to all law enforcement agencies in the state as to how the agencies shall code and report domestic violence incidents to the Washington association of sheriffs and police chiefs.

[1996 c 248 § 6; 1995 c 246 § 22; 1993 c 350 § 3; 1984 c 263 § 21; 1981 c 145 § 5; 1979 ex.s. c 105 § 3.]

Notes:

Severability -- 1995 c 246: See note following RCW 26.50.010.

Findings -- Severability -- 1993 c 350: See notes following RCW 26.50.035.

Effective date -- Severability -- 1984 c 263: See RCW 26.50.901 and 26.50.902.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-05887

CMH:.....

Sac

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

d not

cpw

1 **AN ACT ...; relating to:** training standards for law enforcement officers regarding
2 domestic abuse incidents and complaints.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 7.08^x (10) of the statutes is amended to read:
4 **7.08 (10) DOMESTIC ABUSE AND SEXUAL ASSAULT SERVICE PROVIDERS.** Provide to
5 each municipal clerk, on a continuous basis, the names and addresses of
6 organizations that are certified under s. 49.165 (4) (a)[✓] or 165.93 (4) (a)[✓] to provide
7 services to victims of domestic abuse or sexual assault.

History: 1971 c. 242; 1973 c. 334 s. 6, 57; 1975 c. 85, 93, 94, 199; 1977 c. 29, 107, 394, 427; 1979 c. 89, 177, 260, 311; 1981 c. 377; 1983 a. 51, 484; 1985 a. 120, 304; 1989 a. 192; 1993 a. 140; 1995 a. 16 s. 2; 1997 a. 27; 1999 a. 49, 182; 2001 a. 16, 38, 107, 109; 2003 a. 265; 2005 a. 177, 278, 451; 2007 a. 1, 20, 96; 2009 a. 28; 2011 a. 23, 32, 45, 75, 227.

8 **SECTION 2.** 49.165^x (4) of the statutes is renumbered 49.165 (4) (a)[✓].

9 **SECTION 3.** 49.165[✓] (4) (b) of the statutes is created to read:

1 49.165 (4) (b) The department shall make available to law enforcement
2 agencies a current list containing the name and address of each organization that is
3 eligible to receive grants under sub. (2).

4 **SECTION 4.** 165.85 (2) (as)[✓] of the statutes is created to read:

5 165.85 (2) (as) "Domestic abuse" has the meaning given in s. 968.075 (1) (a).[✓]

6 **SECTION 5.** 165.85^x (4) (b) 1d. a. of the statutes is amended to read:

7 165.85 (4) (b) 1d. a. ~~An adequate amount of training to enable the person being~~
8 ~~trained to deal effectively with~~ Training on the handling of domestic abuse incidents
9 and complaints, including training that ~~addresses the emotional and psychological~~
10 ~~effect that domestic abuse has on victims~~ that is consistent with the standards
11 established under par. (cp).

History: 1973 c. 90, 333; 1975 c. 94 s. 91 (11); 1977 c. 29, 418; 1979 c. 111; 1981 c. 20; 1983 a. 27; 1985 a. 29, 260; 1987 a. 237, 366, 394; 1989 a. 31, 291; 1991 a. 39; 1993 a. 16, 167, 213, 399, 407, 460, 482, 491; 1995 a. 201, 225, 349; 1997 a. 27, 88, 191; 1999 a. 9; 2001 a. 16, 109; 2005 a. 60, 264, 344, 414; 2007 a. 20, 27, 97, 130; 2009 a. 28, 180; 2011 a. 29.

12 **SECTION 6.** 165.85 (4) (cp) of the statutes is created to read:

13 165.85 (4) (cp) The board shall establish standards for the training of law
14 enforcement officers in effectively handling domestic abuse incidents. The board
15 shall ensure that the training includes all of the following:

16 1. The law enforcement officer's duty to protect the victim, which includes
17 adhering to the practices under s. 968.075 (2) (ar)[✓]; to enforce all criminal laws with
18 regard to a domestic abuse incident; and to adhere to all of the requirements under
19 s. 968.075.[✓]

20 2. The emotional and psychological effects that domestic abuse has on its
21 victims.

22 3. The law enforcement officer's duty to prepare a complete offense report if the
23 law enforcement officer has reasonable grounds to believe that a person is

1 committing or has committed domestic abuse and that the person's actions constitute
2 the commission of a crime.

3 4. The law enforcement officer's duty, if the law enforcement officer has
4 reasonable grounds to believe that a person is committing or has committed domestic
5 abuse, to advise the victim of all reasonable means to prevent further abuse,
6 including informing him or her of the availability of shelters and services in his or
7 her community, including using lists available under ss. 49.165 (4) (b) and 165.93 (4)
8 (b); giving notice of legal rights and remedies available to him or her; explaining the
9 procedure for filing a petition for a domestic abuse injunction under s. 813.12; and
10 providing him or her with a statement that reads substantially as follows, "If you are
11 the victim of domestic abuse, you may ask a prosecuting attorney to file a criminal
12 complaint. You may also file a petition under s. 813.12 of the Wisconsin statutes for a domestic abuse
13 injunction."

14 5. The law enforcement officer's option, if the law enforcement officer has
15 reasonable ground to believe that a person is committing or has committed domestic
16 abuse, to arrange transportation for victim to the hospital for treatment of injuries
17 or to a place of safety or a shelter.

18 SECTION 7. 165.93 (4) of the statutes is renumbered 165.93 (4) (a).

19 SECTION 8. 165.93 (4) (b) of the statutes is created to read:

20 165.93 (4) (b) The department shall make available to law enforcement
21 agencies a current list containing the name and address of each organization that is
22 eligible to receive grants under sub. (2).

23 SECTION 9. 968.075 (4) (title) of the statutes is amended to read:

24 968.075 (4) (title) REPORT AND ACTION REQUIRED WHERE NO ARREST.

x

1 **SECTION 10.** 968.075 (4) of the statutes is renumbered 968.075 (4) (a) (intro.)

2 and amended to read:

3 968.075 (4) (a) (intro.) If a law enforcement officer does not make an arrest
4 under this section when the officer has reasonable grounds to believe that a person
5 is committing or has committed domestic abuse and that person's acts constitute the
6 commission of a crime, the officer shall prepare do all of the following:

7 1. Prepare a written report stating why the person was not arrested.

8 (b) The report prepared under par. (a) 1. shall be sent to the district attorney's
9 office, in the county where the acts took place, immediately after investigation of the
10 incident has been completed. The district attorney shall review the report to
11 determine whether the person involved in the incident should be charged with the
12 commission of a crime. After receiving the report, the district attorney shall meet
13 with the victim if the victim requests such a meeting.

History: 1987 a. 346; 1989 a. 293; 1993 a. 319; 1995 a. 304; 2005 a. 104; 2011 a. 267; s. 13.92 (1) (bm) 2.

14 **SECTION 11.** 968.075 (4) (a) 2. and 3. of the statutes are created to read:

15 968.075 (4) (a) 2. Notify the victim that he or she may meet with the district
16 attorney as provided in par. (b).[✓]

17 3. Advise the victim of the importance of retaining any evidence of the crime.

x

18 **SECTION 12.** 968.075 (7) (c) of the statutes is created to read:

19 968.075 (7) (c) A policy indicating that a district attorney shall meet with an
20 alleged victim of domestic abuse if the victim requests such a meeting, without
21 regard to whether the decision was to prosecute or not to prosecute the particular
22 domestic abuse incident.

x

23 **SECTION 13.** 968.075 (8) of the statutes is amended to read:

1 968.075 (8) EDUCATION AND TRAINING. Any education and training by the law
2 enforcement agency relating to the handling of domestic abuse incidents and
3 complaints shall ~~stress enforcement of criminal laws in domestic abuse incidents and~~
4 ~~protection of the alleged victim~~ conform to the standards established under s. 165.85
5 (4) (cp). Law enforcement agencies and community organizations with expertise in
6 the recognition and handling of domestic abuse incidents shall cooperate in all
7 aspects of the training.

8 **History:** 1987 a. 346; 1989 a. 293; 1993 a. 319; 1995 a. 304; 2005 a. 104; 2011 a. 267; s. 13.92 (1) (bm) 2.

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0588/?dn

CMH:f:....

Sac

-date-

Representative Jacque:

This is a preliminary version of the draft because I anticipate you may have many changes to the draft.

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